



Appeal Decision

Site visit made on 15 October 2019

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2019

Appeal Ref: APP/R1038/W/19/3233496

Land approximately 100m south east of Greenfield House, Hungerhill Lane, Stonedge, Ashover S45 0LP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr S Helliwell against the decision of North East Derbyshire District Council.
 - The application Ref 18/01245/FL, dated 11 April 2018, was refused by notice dated 6 February 2019.
 - The development proposed is construction of vehicular access, domestic access track and private parking area.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The planning application form gives the site address as 'Land on the Eastern Corner of Darley Road and Hungerhill Lane, Stonedge, Ashover S45 0LP'. However, the appellant has confirmed that the land on 'the eastern corner' is in third-party ownership. I have therefore used the address given on the Council's decision notice which is more accurate.

Main Issues

3. The main issues are:
 - (i) Whether the development would be inappropriate development in the Green Belt having regard to the effect on its openness, the National Planning Policy Framework (the Framework) and any relevant development plan policies.
 - (ii) If the proposal would be inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether or not inappropriate in the Green Belt having regard to the effect on openness

4. The construction of an access track and parking area would be an engineering operation. Paragraph 146 of the Framework confirms that engineering operations are not inappropriate in the Green Belt provided they preserve its

openness and do not conflict with the purposes of including land within it. Policy GS2 (Development in the Green Belt) of the North East Derbyshire Local Plan (2005) (the LP) also states amongst other things that engineering and other operations will be permitted provided they maintain the openness of the Green Belt and do not conflict with the purposes of land within it. This policy is therefore consistent with the guidance in the Framework and I attribute full weight to it.

5. It therefore falls for me to assess whether or not the engineering operation proposed preserves openness and does not conflict with the purposes of including land in the Green Belt. Paragraph 133 of the Framework sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence.
6. My attention has been drawn to a High Court decision¹. I note the judge indicated at Paragraph 42 that rather than treating any change as having a greater impact on openness of the Green Belt, the correct approach is to consider the impact or harm, if any, wrought by the change. Whether or not any change will have an adverse impact, and so cause harm to openness, might depend on factors such as the scale of the development, its locational context, and its spatial and/or visual implications (paragraph 32 of the High Court decision).
7. The appeal site is situated within a distinctly rural setting. The majority of the access road would align closely with the dry-stone wall and fencing that are positioned along the boundary with Darley Road. It would be surfaced using a cellular system, filled with gravel, top soiled and seeded level with the field. The level of the land, boundary treatments in place and materials utilised mean that the visual impact would be minimised from Darley Road for much of the length of the access track and parking area.
8. However, the access point and initial curved section of the access would be surfaced in tarmac. Gates would also be installed and vehicles using the access would draw attention to its domestic use. These elements of the proposal would be visible to passers-by on Darley Road and would have an urbanising impact particularly given their position remote from the dwelling that the development would serve. There would also be a spatial impact by virtue of the extension of domestic curtilage into the existing field and the overall footprint of the development accounting for the substantial length of the drive and extent of the parking area. By virtue of these factors, the visual and spatial impacts of the development indicate that the proposal would have an adverse effect on the openness of the Green Belt, albeit this would be moderate given the nature and design of the development and the site-specific factors described.
9. To conclude, the development would not preserve the openness of the Green Belt and the development is therefore inappropriate when considered against Policy GS2 of the LP and the Framework.
10. Policy GS6 (New Development in the Countryside) of the LP is also referred to in the Council's decision. Whilst not specific to proposals in the Green Belt, the policy states amongst other things that new development will only be permitted

¹ Euro Garages Ltd v SSCLG & Anor [2018] EWHC 1753 (ADMIN)

if it is for the operation of a use appropriate to such a location, if it is in keeping with the character of the countryside and does not represent a prominent intrusion into the countryside. Whilst not on its own determinative, the proposal would also conflict with this policy insofar as I have found that the domestic nature and design of the proposal would have an adverse visual effect.

Other considerations

11. The dwelling that would be served by the proposed access is the result of a planning permission granted under Part 3 Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO). Condition 3 of the Council's decision required an area to be made available for parking, circulation and standing of vehicles. Nevertheless, the proposal before me requires planning permission and must be assessed on its own merits. Approval under Part 3 Class Q and the specified condition does not override the need to assess the impact of the proposal on the openness of the Green Belt.
12. The appellant contends that the position of the proposed access point follows a radar spot speed analysis of vehicles on Darley Road and subsequent discussions with the Highway Authority. I noted on my site visit the improved visibility that would be achieved for drivers exiting the site by the proposed access when compared with the original access point to the barn. Even so, the information before me indicates that the assessment of the transport and highway impacts of the new dwelling under Part 3 Class Q were based on access to the dwelling being provided from Hungerhill Lane. On this basis, it has previously been accepted by the Council that access from Hungerhill Lane does not raise highway safety concerns. I can therefore only attach limited weight to the comparison of the proposal with the historic access point to the barn from Darley Road.
13. The appellant suggests that based on the current arrangement of the paddocks, associated fencing and position of the stables, access from Hungerhill Lane would itself require a driveway of considerable length and would be likely to be inconvenient given it would necessitate opening and closing several gates. I also acknowledge that wherever access and parking facilities are provided, this will be in the Green Belt and the impact on openness would need to be assessed. However, given the land, fencing and stables are within the appellant's control, I am not persuaded that there is no potential for alterations to be made to the layout of the existing structures to facilitate convenient access from Hungerhill Lane. I therefore only attach limited weight to this matter.
14. The appellant suggests that there has been a distinct enhancement of the landscape through conversion of the barn. The barn is of a character synonymous with a countryside setting and does not form part of the proposal before me. Given its small scale and previous existence, I only attach limited weight to any visual enhancement to the building that may have resulted from its conversion.

Green Belt Balance and Conclusion

15. The development constitutes inappropriate development in the Green Belt by virtue of the fact it would not preserve openness. Even acknowledging that I have found that the visual and spatial impacts on openness would be

moderate, inappropriate development is, by definition, harmful and is a matter to which I must attach substantial weight. The development should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. This is a high hurdle for a development proposal to overcome. I have found that the other considerations in favour of the proposal would only carry limited weight.

16. In conclusion and on balance, the substantial weight to be given to Green Belt harm, is not clearly outweighed by these other considerations and therefore the very special circumstances needed to justify the development do not exist.
17. For the reasons given, the overall conclusion is therefore that the appeal should be dismissed.

M Russell

INSPECTOR